

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

EDDIE D. HUTCHINS) CASE NO. 1:10CV1385
)
Plaintiff,) JUDGE JAMES S. GWIN
v.)
)
BANK OF NEW YORK MELLON) <u>MEMORANDUM OF OPINION</u>
) <u>AND ORDER</u>
Defendant.)

Plaintiffs *pro se* Eddie D. Hutchins filed this action under the Truth-In-Lending Act (“TILA”), 15 U.S.C. § 1601 *et seq.*, the Real Estate Settlement Procedures Act (“RESPA”), 12 U.S.C. § 2601 *et seq.* and the Fair Debt Collection Procedures Act (“FDCPA”) 15 U.S.C. § 1692. He asserts that Defendant wrongfully foreclosed on his property. Plaintiff seeks an order from this Court dismissing the state foreclosure action and “render the order of the court to me immediately.” Complaint, pg. 5.

While *pro se* pleadings are liberally construed, *Boag v. MacDougall*, 454 U.S. 364, 365 (1982) (per curiam); *Haines v. Kerner*, 404 U.S. 519, 520 (1972), the district court may dismiss an action *sua sponte* if the complaint is so “implausible, attenuated, unsubstantial, frivolous, devoid of merit, or no longer open to discussion” as to deprive the court of jurisdiction. *Apple v. Glenn*, 183 F.3d 477, 479 (6th Cir. 1999)(citing *Hagans v. Lavine*, 415 U.S. 528, 536-37 (1974)). Under Federal Rule of Civil Procedure 8(a)(2), a pleading must contain a “short and plain statement of the claim showing that the pleader is entitled to relief.” *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009). “*Pro se* plaintiffs are not automatically entitled to take every case to trial.” *Price v. Caruso*, 451 F.Supp.2d 889, 893 (E. D. Mich. 2006)(quoting *Pilgrim v. Littlefield*, 92 F.3d 413, 416 (6th

Cir.1996)). For the reasons stated below, this action is dismissed.

Plaintiff's Complaint contains very few factual allegations. He was the owner of property located at 3613 Washington Blvd., Cleveland Heights, Ohio 44118 which was encumbered by a mortgage owned by the Defendant. The Defendant filed a foreclosure action against him in the Cuyahoga County Court of Common Pleas on September 8, 2009. *Bank of New York Mellon v. Hutchins, et al.*, Case No. CV-09-703398. Judgment was granted in favor of the Defendant on June 7, 2010.

Although the Complaint asserts violation of multiple statutes, the basic premise of the pleading is that the underlying mortgage loan obligation is invalid and the foreclosure judgment is void. Plaintiff contends that the underlying note was a forgery, that he does not have a contract with this bank, and that it is seeking money he never received.

As an initial matter, this Court cannot void the judgment of foreclosure. United States District Courts do not have jurisdiction over challenges to state court decisions even if those challenges allege that the state court's action was unconstitutional. *See District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 483 n. 16 (1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415-16 (1923). Federal appellate review of state court judgments can only occur in the United States Supreme Court, by appeal or by writ of certiorari. *Id.* Under this principle, generally referred to as the Rooker-Feldman Doctrine, a party losing his case in state court is barred from seeking what in substance would be appellate review of the state judgment in a United States District Court based on the party's claim that the state judgment itself violates his or her federal rights. *Johnson v. DeGrandy*, 512 U.S. 997, 1005-06 (1994). Federal jurisdiction cannot be invoked merely by couching the claims in terms of a civil rights action. *Lavrack v. City of Oak Park*, No. 98-1142, 1999

WL 801562, at *2 (6th Cir. Sept. 28, 1999); *see Valenti v. Mitchell*, 962 F.2d 288, 296 (3d Cir.1992).

The United States Sixth Circuit Court of Appeals has applied two elements to a Rooker-Feldman analysis. First, in order for the Rooker-Feldman doctrine to apply to a claim presented in federal district court, the issue before the court must be inextricably intertwined with the claim asserted in the state court proceeding. *Catz v. Chalker*, 142 F.3d 279, 293 (6th Cir. 1998); *see Tropf v. Fidelity National Title Insurance Co.*, 289 F.3d 929, 937 (6th Cir. 2002). “Where federal relief can only be predicated upon a conviction that the state court was wrong, it is difficult to conceive the federal proceeding as, in substance, anything other than a prohibited appeal of the state court judgment.” *Catz*, 142 F.3d at 293. The Rooker-Feldman doctrine applies when the party losing his case in state court files suit in federal district court seeking redress for an injury allegedly caused by the state court’s decision itself. *Coles v. Granville*, 448 F.3d 853, 857-59 (6th Cir. 2006). Second, the Rooker-Feldman doctrine precludes a district court’s jurisdiction where the claim is a specific grievance that the law was invalidly or unconstitutionally applied in plaintiff’s particular case as opposed to a general constitutional challenge to the state law applied in the state action. *Id.*

In the present action, Plaintiff questions the state court’s decision granting a foreclosure. Any review of federal claims asserted in this context would require the court to review the specific issues addressed in the state court proceedings against him. This court lacks subject matter jurisdiction to conduct such a review or grant the relief as requested. *Feldman*, 460 U.S. at 483-84 n. 16; *Catz*, 142 F.3d at 293.

Moreover, Plaintiff simply seeks to litigate matters which were raised or which should have been raised in the state court foreclosure and eviction proceedings. A federal court must give a state

court judgment the same preclusive effect it would have in the courts of the rendering state. 28 U.S.C. § 1738; *Dubuc v. Green Oak Township*, 312 F.3d 736, 744 (6th Cir. 2002). The preclusive effect of the previous state court judgments are therefore governed by Ohio law on preclusion. *Id.* Under Ohio law, an existing final judgment or decree is conclusive as to all claims which were or might have been litigated in the first lawsuit. *National Amusement, Inc. v. City of Springdale*, 53 Ohio St. 3d 60, 62 (1990). The doctrine of *res judicata* requires a plaintiff to present every ground for relief in the first action he files, or forever be barred from asserting it. *Id.* The purpose of this doctrine is to promote the finality of judgments and thereby increase certainty, discourage multiple litigation, and conserve judicial resources. *Allen v. McCurry*, 449 U.S. 90, 94 (1980). The state court has already granted judgment in favor of Bank of New York Mellon. This Court is bound to give full faith and credit to the decisions of that court.

Accordingly, this action is dismissed.

IT IS SO ORDERED.

Date: July 8, 2010

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE